

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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**SHAWN POELLNITZ,**

**Petitioner,**

**v.**

**CAROLYN A. SABOL,**

**Respondent.**

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**Civil Action No.  
07-40134-FDS**

**MEMORANDUM AND ORDER ON PETITIONER'S  
MOTION FOR CERTIFICATE OF APPEALABILITY**

**SAYLOR, J.**

This matter is pending before the Court on petitioner Shawn Poellnitz's request for a Certificate of Appealability ("COA") pursuant to 28 U.S.C. § 2253. On May 2, 2007, Poellnitz filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. On May 15, 2007, the Court dismissed Poellnitz's petition because (1) his claim of inadequate medical treatment was a challenge to the conditions of his confinement, making a writ of habeas corpus an inappropriate means to seek the requested relief; and (2) his challenge to the validity of 28 C.F.R. §§ 570.02 and 570.21 failed because he was not entitled to have the Federal Bureau of Prisons ("BOP") consider him for placement in a halfway house and/or home confinement under BOP policy that existed prior to December 2002. Poellnitz seeks a COA to allow him to appeal this Court's order dismissing the petition.

As noted, Poellnitz filed his habeas petition under 28 U.S.C. § 2241. The COA requirement, however, does not apply to proceedings brought pursuant to § 2241. *E.g., Gonzalez*

*v. Justices of Mun. Ct. of Boston*, 382 F.3d 1, 11 (1st Cir. 2004), *vacated on other grounds by* 544 U.S. 918 (2005); *United States v. Barrett*, 178 F.3d 34, 42 (1st Cir. 1999). Accordingly, because the relief sought is unnecessary, petitioner's application for a Certificate of Appealability is DENIED.

**So ordered.**

/s/ F. Dennis Saylor  
F. Dennis Saylor IV  
United States District Judge

Dated: February 28, 2008